**THE HONOURABLE SRI JUSTICE V.ESWARAIAH**

**W.P. No.6768 of 2000**
**AND**
**W.P.No. 9908 of 2006**

**Date:22-10-2007**

**W.P. No.6768 of 2000**

Between:

Y.Bala Rao and another

**…Petitioners**

AND

The District Collector, Eluru and two others

**.. Respondents**

**W.P. No.9908 of 2006**

Between:

Y.Bala Rao and another

**…Petitioners**

AND

The District Collector, Eluru and three others

**.. Respondents**

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**COMMON ORDER**:

Since the petitioners in both the writ petitions are one and same persons, I deem it convenient to dispose of the same by way of this common order.

**W.P.No.6768 of 2000:** The petitioners seek a writ of mandamus to declare the action of the respondents in not assigning the lands in Sy.No.130/13 to an extent of Ac.4.84 cents to the first petitioner and in Sy.No.130/14 to an extent of Ac.4.99 cents to the second petitioner in Vemuluru village, Kovvur mandal, West Godavari District, as illegal and arbitrary.

**W.P.No.9908 of 2006:** The petitioners seek a writ of mandamus to declare the proceedings of the first respondent in ROC No.D4.2748/2002, dated 01.05.2006, as illegal and arbitrary and consequently to direct the respondents not to dispossess them from the land covered by R.S.Nos.130/13 and 130/14 an extent of Ac.4.84 cents each of Vemuluru Gram Panchayat, Kovvur mandal, West Godavari District.

It is the case of the petitioners that they are the Ex-servicemen and are entitled for assignment of the said land. It is stated that their representation made before the Sainik Welfare Board, Kakinada was forwarded to the Mandal Revenue Officer, Kovvur and a preliminary enquiry has also been conducted. It is stated that the said

application has not been considered and disposed of so far though similarly situated persons have been assigned with the government land.

A counter has been filed by the Mandal Revenue Officer, Kovvur stating that after assigning the lands in an extent of Ac.17.42 cents, which is a tank on ground, the said land is submerged and not fit for cultivation. The son-in-law of the first petitioner is in illegal occupation and enjoyment of the said land and also purchased the lands of an extent of Ac.7.00 cents from the benami persons in the name of his family members and after conducting enquiry, the said transactions have been cancelled and there were objections from the general public for assignment of the land as the land is completely covered by tank and not fit for cultivation. It is stated that the land applied for assignment is a kunta poramboke and it is to be vested in the Grampanchayat and the same is required for the public purpose. As the said land is a tank poramboke, the petitioners are not entitled for any assignment.

It is the case of the petitioners that the lands assigned in favour of other ex-servicemen are also low ground tank of Avakunta and the petitioners are also entitled for assignment as certified by the village administrative officer.

It is pertinent to note that Grampanchayat, Vemuluru filed W.P.No.5038 of 2002 on this file of this Court to issue a writ of mandamus directing the official respondents to hand over Avakunta (Kunta Poramboke) situated in R.S.No.130 in an extent of Ac.37.47 cents of Vemuluru village in favour of Vemuluru Grampanchayat and the said writ petition was disposed of by an order, dated 26.10.2005 directing the District Collector, West Godavari to consider the recommendations sent by the Mandal Revenue Officer and pass

appropriate orders. It is stated that the Mandal Revenue Officer in his report stated that Ac.17.42 cents in Sy.No.130/1 is required for the public purpose. It is stated that pursuant to the orders of this Court, the District Collector conducted an enquiry and passed the order, dated 01.05.2006 directing the District Panchayat Officer to take action as per the provisions laid down in Section 80(1) of A.P. Panchayat Raj Act, 1991 in respect of land covered by R.S.No.130/1 in an extent of Ac.17.42 cents to enable the Gram Panchayat, Vemuluru of Kovvur mandal to utilize for public purpose as there is possibility to raise funds to the grampanchayat by way of fish cultivation since the area is submerged with water. The petitioners question the said order in W.P.No.9908 of 2006.

No doubt, the petitioners being Ex-servicemen are entitled for assignment of an extent of Ac.5.00 cents of dry land or
Ac.2.50 cents of wet land. But, as per the laoni Rules, tank poramboke, tank bed lands etc. cannot be assigned in favour of any persons including the Ex-servicemen. As the said land is tank poramboke, I am of the opinion that the petitioners are not entitled for the said land. But, it is always open for the respondents to consider their claim, if any other lands are available for assignment. But, insofar as the lands in question are concerned, they being the tank poramboke, neither the petitioners nor any others are entitled for any assignment of the land. It is stated that the entire land is covered by water and that being the tank poramboke, the petitioners are not entitled for the said land. Therefore, both the writ petitions are liable to be dismissed.

Accordingly, W.P.6768 of 2000 and W.P.No.9908 of 2006 are dismissed. There shall be no order as to costs.

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**V.ESWARAIAH, J.**

Date:22.10.2007
**ccm**